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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT**, a multi-county
rapid transit district established and
existing under the laws of California;

Plaintiff,

vs.

WILLIAM D. SPENCER, an individual;
F.W. SPENCER & SON, INC., a
California corporation; **BRISBANE
MECHANICAL CO.**, a California
corporation; **WILLIAM MCGAHAN**, an
individual; **BRUCE R. BONAR**, an
individual; and **DOES 1-25**,

Defendants.

Case No. C 04 4632 SI

**STIPULATION AND JOINT MOTION OF
ALL PARTIES TO EXTEND CUTOFF
FOR NON-EXPERT DISCOVERY
SOLELY FOR DEPOSITION OF A.
ANSWER, INC.**

**(WITHOUT AFFECTING SCHEDULING
FOR DISPOSITIVE MOTIONS,
PRETRIAL CONFERENCE, OR TRIAL)**

1 All parties hereto, by and through their respective, undersigned counsel, hereby stipulate
 2 to, and jointly move for, an order amending the Order of the Court dated August 29, 2006, for the
 3 limited purpose of allowing one deposition to be taken after the September 22, 2006 non-expert
 4 discovery cut-off. The deposition will be of non-party A. Answer, Inc., through its corporate
 5 representative Patsy Reese, and counsel for all parties, including counsel for A. Answer, Inc.,
 6 have agreed to conduct the deposition on September 26, 2006. Counsel for BART has properly
 7 subpoenaed A. Answer, Inc. and provided notice to defense counsel of the deposition. The
 8 deposition originally had been scheduled to occur in August, but the witness and its counsel were
 9 not available. BART's efforts to reschedule the deposition for a date before September 22nd
 10 have been unsuccessful due to the unavailability of the corporate representative witness and
 11 counsel for A. Answer, Inc., both of whom are available and have agreed to appear for the
 12 deposition on September 26, 2006.

13 This Stipulation shall not alter any other dates or deadlines established in the Court's
 14 scheduling Order dated August 29, 2006, or any other terms of that Order or the Amended
 15 Pretrial Preparation Order of June 16, 2006.

16 In support of, and as grounds for, this Motion, the parties state as follows:

17 (1) Despite diligent efforts to schedule and complete the deposition of A. Answer, Inc.
 18 prior to the current September 22, 2006 deadline, the parties were unable to complete the
 19 deposition, primarily because of pre-paid vacation, witness unavailability and other scheduling
 20 conflicts of counsel for A. Answer, Inc. and its corporate representative witness.

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(2) This stipulation and joint motion is made for the reasons stated and not for purposes of undue delay or to unfairly prejudice any party or the administration of justice. The amended scheduling Order sought hereby would not affect the schedule for any procedures or proceedings, including dispositive motions or trial.

DATED: September 12, 2006

SQUIRE, SANDERS & DEMPSEY L.L.P.

By: /s/Evan S. Nadel

Eduardo G. Roy
Rodney R. Patula
Evan S. Nadel
Daniel T. Balmat

Attorneys for Plaintiff

DATED: September 12, 2006

MCINERNEY & DILLON, P.C.

By: /s/LeCarie S. Whitfield

Timothy L. McInerney
LeCarie S. Whitfield
Gregory J. Gangitano

Attorneys for Defendants

IT IS SO ORDERED.



DATED: _____

HON. SUSAN ILLSTON

PROOF OF SERVICE

(Pursuant to Federal Law)

The undersigned certifies and declares as follows:

I, JOHN R. AGUILAR, am a resident of the State of California and over 18 years of age and am not a party to this action. My business address is One Maritime Plaza, Suite 300, San Francisco, California 94111-3492, which is located in the county where any non-personal service described below took place.

On September 13, 2006, a copy of the following document(s):

**STIPULATION AND JOINT MOTION OF ALL PARTIES TO EXTEND
CUTOFF FOR NON-EXPERT DISCOVERY SOLELY FOR
DEPOSITION OF A. ANSWER, INC. (WITHOUT AFFECTING
SCHEDULING FOR DISPOSITIVE MOTIONS, PRETRIAL
CONFERENCE, OR TRIAL)**

was served on:

MCINERNEY & DILLON, P.C.
Timothy L. McInerney, Esq.
LeCarie S. Whitfield, Esq.
Lake Merritt Plaza
1999 Harrison Street, Street 1700
Oakland, CA 94612-4700

**Attorneys for Defendants
WILLIAM D. SPENCER, F.W.
SPENCER & SON, INC., BRISBANE
MECHANICAL CO., BRUCE R.
BONAR, and WILLIAM M.
MCGAHAN**

William J. McGahan
General Counsel
F.W. Spencer & Son, Inc.
1422 Harrison Street
Oakland, CA 94612

**Co-Counsel for Defendants
F.W. SPENCER & SON, INC.,
BRISBANE MECHANICAL CO.**

Service was accomplished as follows.

☒ **By U.S. Mail.** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice the mail would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Facsimile.** On the above date, I transmitted the above-mentioned document(s) by facsimile transmission machine to the parties noted above, whose facsimile transmission machine telephone number is set forth above.

☐ **By Express Service Carrier.** On the above date, I sealed the above document(s) in an envelope or package designated by Federal Express, an express service carrier, addressed to the above, and I deposited that sealed envelope or package in a box or other facility regularly maintained by the express service carrier, or delivered that envelope to an authorized courier or driver authorized by the express service carrier to receive documents, located in San Francisco, California with delivery fees paid or otherwise provided for.

1 I declare that I am employed in the office of a member of the bar of this court at whose
2 direction the service was made. Executed on September 13, 2006, at San Francisco, California.

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4 /s/John R. Aguilar
5 JOHN R. AGUILAR
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